



DEPARTMENT OF EDUCATION

P.O. BOX 83720
BOISE, IDAHO 83720-0027

MR. TOM LUNA
STATE SUPERINTENDENT
PUBLIC INSTRUCTION

CHILD AND ADULT CARE FOOD PROGRAM

INSTITUTION APPEAL PROCEDURES (REVISED 8/03/03)

7CFR 226.6(k)(2) (i-xii) refers to a complete listing of actions that are appealable:

- 1) Denial of a new or renewing institution's application for participation...
- 2) Proposed termination of an institution's agreement...
- 3) Proposed disqualification of a responsible principal or responsible individual...
- 4) Suspension of participation...
- 5) Denial of an institution's application for start-up or expansion payments...
- 6) Denial of a request for an advance payment...
- 7) Any other action of the State agency affecting an institution's participation or its claim for reimbursement.

- (1) The institution's Executive Director and Chairman of the Board of Directors, and the responsible principals and responsible individuals shall be advised in writing of the grounds on which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the institution has the right to appeal the action;
- (2) The written request for review shall be filed by the appellant not later than 15 calendar days from the date the appellant received the notice of action, and the State shall acknowledge the receipt of the request for appeal within 10 calendar days;
- (3) The appellant may refute the charges contained in the notice of action in person and by written documentation to the review official. In order to be considered, written documentation must be filed with the review official not later than 30 calendar days after the appellant received the notice of action. The appellant may retain legal counsel, or may be represented by another person. A hearing will be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. Failure of the appellant institution's representative to appear at a scheduled hearing shall constitute the appellant institution's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official;
- (4) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;
- (5) Any information on which the State agency's action was based will be available to the appellant for inspection from the date of receipt of the request for review;
- (6) The review official shall be an independent and impartial official other than, and not accountable to, any person authorized to make decisions that are subject to appeal under the provisions of this section;
- (7) The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;

- (8) Within 60 calendar days of the State agency's receipt of the request for review, the review official shall inform the State agency and the appellant of the determination of the review;
- (9) The State agency's action shall remain in effect during the appeal process. However, participating institutions and facilities may continue to operate under the Program during an appeal of termination, unless the action is based on imminent dangers to the health or welfare of children. If the institution or facility has been terminated for this reason, the State agency shall so specify in its notice of action.
- (10) The determination by the State review official is the final administrative determination to be afforded to the appellant;
- (11) Appeals shall not be allowed on decisions made by FNS on requests for exceptions to the claims submission deadlines stated in Part 226.10(e) or requests for upward adjustments to claims;
- (12) In cases where an appeal results in the dismissal of a claim against an institution which was asserted by the State agency based upon Federal audit findings, FNS may assert a claim against the State agency in accordance with the procedures outlined in Part 226.14(c).
- (13) *Abbreviated Appeals Procedure: 7CFR226.6 (9)* - The State agency must limit the appeals to a review of written submissions concerning the accuracy of the State agency's determination if the application was denied or the State agency proposes to terminate the institution's agreement because:
 - (i) The information submitted on the application was false (see 7CFR226 paragraphs (c)(1)(ii)(A), (c)(2)(ii)(A), (c)(3)(ii)(A) of this section);
 - (ii) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is on the national disqualified list (see paragraph (b)(12) of this section);
 - (iii) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities is ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program (see paragraph (b)(13) and (c)(3)(ii)(S) of this section); or
 - (iv) The institution, one of its sponsored facilities, or one of the principals of the institution or its facilities has been convicted for any activity that indicates a lack of business integrity (see paragraphs (b)(14) and (c)(3)(ii)(T) of this section).

Appeals must be directed to:

Keith D. Potter, Investigator and Specialist
Professional Standards Commission
Teacher Education/Certification
Idaho State Department of Education
PO Box 83720
Boise, Idaho 83720-0027
(208) 332-6884